# Public Service Staffing Tribunal

## 2007 – 2008

## Departmental Performance Report

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The Honourable James Moore, P.C., M.P.
Minister of Canadian Heritage and Official Languages

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# SECTION I
# *Overview*

# Chairperson's Message

This second year of full operations was a milestone for the Public Service Staffing Tribunal as the procedures, systems and policies put in place the previous year for receiving and resolving staffing-related complaints were put to the test.

One of the main challenges faced by the Tribunal during the year was the increase in its caseload, as the number of complaints rose sharply from 438 in 2006–2007 to 742 in 2007–2008. This represents an increase of 69 percent in the volume of complaints and underscored the importance of a robust case management system to ensure the timely processing of complaints by the Tribunal. To this end, technical improvements were made to the system so that case files could be monitored, problems resolved and more reports generated. An effective case management system is crucial to the success of the Tribunal's key functions: the adjudication and mediation of complaints under the *Public Service Employment Act* (PSEA).

From the outset, one of the Tribunal's main objectives has been to help the parties resolve a complaint through mediation or another informal process, rather than a formal hearing. The benefits of informal dispute resolution are well known:

- The parties – rather than a third party – determine the outcome.
- The outcome is likely to last longer and be more satisfactory to the parties because they determine the outcome.
- The relationship between the parties is strengthened through a forum which allows them to discuss the issues and possible options in a non-threatening manner.

For these reasons, the Tribunal offers several opportunities for the parties to a complaint to resolve the matter before a hearing takes place. In addition to mediation, the Tribunal provides a 25-day period for the exchange of relevant information between the parties and requires complainants to file written allegations and deputy heads to respond to all allegations also in writing. In addition, the Tribunal holds pre-hearing conferences for all complaints scheduled for hearing in order to narrow the issues to be resolved. In many cases, the complaint is resolved following the pre-hearing conference.

The Tribunal's mediation services proved to be very effective in 2007–2008. Of the 119 mediation sessions conducted during the year, 96, or 81 percent, resulted in the withdrawal of the complaint.

Overall, the percentage of complaints resolved without a decision by the Tribunal rose from 86 percent in 2006–2007 to 95 percent in 2007–2008. In addition to the 742 complaints received during the year, 255 were carried over from 2006–2007. Most of these files were either withdrawn at one of the steps in the complaint process or dismissed for lack of jurisdiction or because they were filed after the deadline. Only 35 of all 995 files proceeded to either an oral or paper hearing[1] by a Tribunal member on the merits of the case.

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[1] A paper hearing consists of a Tribunal member rendering a decision based on written submissions from the parties.

It is through its informal dispute resolution mechanisms that the Tribunal helps to build trust between managers and employees, thereby supporting more collaborative labour-management relations. In the cases where a complaint has proceeded to a hearing and the Tribunal has rendered a decision, it has endeavoured to bring about a greater understanding of the flexibility afforded to deputy heads by the PSEA for making appointments in the federal public service.

The Tribunal has observed, for example, in the *Visca*[2] decision and others, that the flexibility offered to deputy heads is not being used to its full advantage and that, while certain practices common under the former PSEA, such as the ranking of candidates, do not constitute an abuse of authority in and of themselves, they do demonstrate a certain reluctance to fully embrace the spirit and intent of the new PSEA and should therefore be discouraged. In this way, the Tribunal helps managers and employees to better understand and apply the provisions of the new legislation.

I am pleased, therefore, to report that the Tribunal continues to play a key role in the public service renewal by promoting and supporting constructive dialogue between the parties and setting the direction for the appropriate use of the greater flexibility provided in the PSEA.

**Guy Giguère**
Chairperson and Chief Executive Officer

[2] *Visca v. Deputy Minister of Justice et al.*, [2007] PSST 0024.

# Management Representation Statement

I submit for tabling in Parliament, the 2007–2008 Departmental Performance Report for the Public Service Staffing Tribunal.

This document has been prepared based on the reporting principles contained in the *Guide for the Preparation of Part III of the 2007–2008 Estimates: Reports on Plans and Priorities and Departmental Performance Reports:*

- It adheres to the specific reporting requirements outlined in the Treasury Board Secretariat guidance;
- It is based on the department's approved Strategic Outcome(s) and Program Activity Architecture that were approved by the Treasury Board;
- It presents consistent, comprehensive, balanced and reliable information;
- It provides a basis of accountability for the results achieved with the resources and authorities entrusted to the Tribunal; and
- It reports finances based on approved numbers from the Estimates and the Public Accounts of Canada.

Guy Giguère
Chairperson and Chief Executive Officer

# Summary Information

## Raison d'être

The Public Service Staffing Tribunal ("PSST" or "Tribunal") is an independent, quasi-judicial tribunal established by the *Public Service Modernization Act* (PSMA) as part of the new arrangements for recourse with respect to staffing complaints.

The mandate of the PSST is to consider and dispose of complaints related to internal appointments, lay-offs, the implementation of a corrective measure ordered by the Tribunal or the revocation of an appointment.

The PSST may provide mediation services at any stage of its proceedings in order to resolve a complaint.

In considering whether a complaint against an internal appointment or lay-off is founded, the PSST may interpret and apply the *Canadian Human Rights Act* (CHRA).

## Mission

The mission of the PSST is to contribute to a competent, non-partisan and representative public service through the impartial and timely disposition of disputes related to internal staffing and lay-off processes in the Government of Canada. This includes:

- Rendering decisions that are sound an well reasoned;
- Ensuring that parties are treated fairly;
- Processing complaints in a timely manner;
- Assisting parties to resolve complaints through alternative dispute resolution (ADR) mechanisms;
- Ensuring that all processes are fair and transparent;
- Providing stakeholders user-friendly access to PSST services and information;
- Educating and informing clients and the public on the PSST's role, services and jurisprudence; and
- Promoting a work environment that fosters the development of a knowledgeable and client-centred staff.

## Financial Resources ($ thousands)

| 2007–08 | | |
|---|---|---|
| **Planned Spending** | **Total Authorities** | **Actual Spending** |
| 4,960 | 5,119 | 4,304 |

## Human Resources

| 2007–08 | | |
|---|---|---|
| **Planned** | **Actual** | **Difference** |
| 35 FTEs | 29 FTEs | 6 FTEs |

## Public Service Staffing Tribunal Priorities

| Priorities | Status | Planned Spending | Actual Spending |
|---|---|---|---|
| 1. Consider and dispose of complaints | Ongoing | 2,270 | 1,705 |
| 2. Provide mediation services | Ongoing | 880 | 667 |
| 3. Fully inform and assist clients | Ongoing | 200 | 166 |
| 4. Fully develop corporate services | Ongoing | 1,110 | 1,400 |
| 5. Enhance management framework | Ongoing | 500 | 366 |

# Program Activity Architecture (PAA) Crosswalk

| | |
|---|---|
| **Old Strategic Outcome:** | Contribute to a competent, non-partisan and representative Public Service through impartial and timely disposition of disputes related to the internal staffing and lay-off processes in the Government of Canada |
| **New Strategic Outcome:** | Fair and impartial resolution of disputes related to internal appointments and lay-offs in the Government of Canada |
| **New Program Activity:** | **Adjudication and mediation of complaints under the *Public Service Employment Act*** |

| **Old Program Activity:** | **Planned Spending ($ thousands)** | **Actual Spending ($ thousands)** |
|---|---|---|
| **Processing of complaints relating to the appointment, revocation and lay-off provisions under the *Public Service Employment Act*** | 4,960 | 4,304 |

## Reason for changes

Step 1 of the implementation of the Management, Resources and Results Structure (MRRS) required departments and agencies to develop fully articulated structures for their Program Activity Architecture (PAA) by April 30, 2007. As part of the MRRS exercise, the Tribunal's single strategic outcome and program activity were changed to better reflect its mandate and describe its main responsibilities more accurately.

## Departmental Priorities by Strategic Outcome

**Strategic Outcome:** Fair and impartial resolution of disputes related to internal appointments and lay-offs in the Government of Canada

| Program Activity | Expected Results | Status | Planned Spending ($ thousands) | Actual Spending ($ thousands) |
|---|---|---|---|---|
| **Adjudication and mediation of complaints under the *Public Service Employment Act*** | Tribunal decisions are timely, sound and well reasoned | Met | 4,960 | 4,304 |
| | Optimal utilization of Tribunal's resolution services by parties | Met | | |

## Context and Operating Environment

Since its inception, the PSST has faced two major challenges: a lack of permanent funding and an unpredictable case load. In setting up the PSST, it was estimated that approximately 400 complaints a year would be submitted to the PSST. The PSST began its operations on December 31, 2005; in the remaining three months of fiscal year 2005–2006, only 15 complaints were received. During fiscal year 2006–2007, 438 complaints were received; in 2007–2008, the number of complaints received by the PSST rose sharply to 742. If this trend continues, the PSST could receive up to 1,000 complaints a year or more.

Since its establishment, the PSST has been allocated transitional funding from the PSMA fund to develop, implement and administer its adjudication and mediation program. The PSST currently has funding until the end of fiscal year 2008–2009. Up to now, the PSST has sought to utilize its limited resources as efficiently and effectively as possible because of the unpredictability of the caseload. However, if the number of complaints received per year continues to rise at the current rate without a guarantee of adequate, permanent funding, a significant back-log of cases could arise, thereby causing delays in the complaint process and frustration among its stakeholders.

Appropriate, ongoing funding is therefore crucial to the effectiveness of the Tribunal. Without the assurance that such funding is available for 2009–2010 and beyond, the PSST will continue to be distracted from its mandate by funding issues and concerns about serious shortfalls. As an independent, quasi-judicial body, the PSST must be provided with a secure future. Otherwise, the value and benefits of the PSMA will be called into question. Appropriate, permanent funding will ensure that the PSST can focus on its mandate and that the public service can move forward to achieve its modernization objectives and continue to provide high quality services to Canadians.

## Alignment with Government of Canada Strategic Outcomes

### Government Affairs

The PSEA was intended to modernize staffing in the public service by providing independent recourse for complaints related to internal appointments and lay-offs and also increase the availability and effectiveness of mediation in resolving complaints.

The Clerk of the Privy Council described both the importance and the objectives of public service modernization in the Thirteenth Annual Report to the Prime Minister on the Public Service of Canada[3] as follows:

> With the coming into force of the new *Public Service Employment Act* (PSEA) on December 31, 2005, the *Public Service Modernization Act* (PSMA) is now fully implemented. The modernization of the human resources regime sets an important milestone in public sector reform by reinforcing key accountability, fairness and

[3] Thirteenth Annual Report to the Prime Minister on the Public Service of Canada for the year ending March 31, 2007, Clerk of the Privy Council and Secretary to the Cabinet.

transparency. The PSMA assigns greater flexibility to departments and agencies in managing people so that the right people are put in the right jobs on a timely basis. It supports more collaborative labour-management relations, providing a foundation for cooperation while generating trust between managers and employees. These changes underscore our fundamental commitment to merit and non-partisanship, and the importance of public service values in managing people.

### Benefits to Canadians

In striving to provide transparent, impartial and sound decision-making to deputy heads, bargaining agents and public servants as well as the necessary support to help parties resolve complaints without a formal hearing, the PSST contributes to both the effective management of human resources in the public service and the protection of the integrity of the appointment process. In so doing, the PSST provides support to a public service based on merit and capable of delivering services of the highest quality to Canadians.

## Overall Description of Performance

In 2007–2008, the PSST's second full year of operations, the number of complaints received by the Tribunal rose by nearly 70 percent. This increase in volume, coupled with the carry-over of 255 files from the previous year, necessitated adjustments to the Tribunal's complaint process in order to ensure that complaints continued to be handled as informally and as expeditiously as possible. These adjustments included the consolidation of complaint files, an emphasis on complaint resolution through effective communication and the issuing of letter decisions[4] for procedural matters and did, in fact, prove to be successful. For, of the 997 files handled during the year, only 35, or 3.5 percent, proceeded to either an oral or paper hearing by a Tribunal member on the merits of the case.

In other words, the vast majority of complaint files received during the year were resolved either through mediation, on the basis of written submissions or following the exchange of information, or another step in the complaint process. The results of the PSST's mediation program has exceeded expectations in that 80 percent of all complaints referred to the Tribunal's mediation services in 2007–2008 were withdrawn.

Experience has thus demonstrated that, while relatively new, the PSST's adjudication and mediation activities contribute to the modernization of the Government of Canada's human resources regime by reinforcing key accountability, fairness and transparency in the federal public service appointment process while supporting more collaborative labour-management relations.

[4] A letter decision outlines a decision rendered by the PSST with respect to a motion or request and based on existing jurisprudence.

## SECTION II

# *Analysis of Program Activity by Strategic Outcome*

# Analysis by Program Activity

**Strategic Outcome:** Fair and impartial resolution of disputes related to internal appointments and lay-offs in the Government of Canada

**Program Activity:** Adjudication and mediation of complaints filed under the *Public Service Employment Act*

### Financial Resources ($ thousands)

| Planned Spending | Authorities | Actual Spending |
|---|---|---|
| 4,960 | 5,119 | 4,304 |

### Human Resources

| Planned | Actual | Difference |
|---|---|---|
| 35 FTEs | 29 FTEs | 6 FTEs |

## Performance Management Framework

Although the Tribunal's 2007–2008 Report on Plans and Priorities contained performance indicators and targets, these were not very well defined because, at the time of writing, the PSST had been operating for less than two years and was focused on fine-tuning the complaint process and staffing key positions in the process, such as registry officers and mediators. Nevertheless, a performance management framework was developed and implemented in 2007 as part of the MRRS exercise. For this reason, the performance indicators and targets described in this report differ slightly from those contained in the 2007–2008 Report on Plans and Priorities. A detailed explanation of the changes follows.

## PSST Program Priorities

One of the key objectives of the PSST is to render sound decisions for complaints filed under the PSEA that provide effective recourse, withstand judicial review and are of high quality. An important measure of quality is the number of legal challenges to the Federal Court against Tribunal decisions and, of those, the number dismissed.

In the 2007–2008 Report on Plans and Priorities, the PSST had identified two results with two indicators each for the Tribunal's adjudication functions:

| Results | Indicators |
|---|---|
| PSST decisions are sound and well reasoned | • High quality of decisions<br>• Fair and transparent process |
| Complaints are processed in a timely manner | • Stakeholder satisfaction<br>• Elapsed time for processing complaints |

In collecting the relevant information to measure the effectiveness of the adjudication functions, it soon became evident that these original indicators were highly subjective in nature. For example, stakeholder satisfaction and the fairness and transparency of the process could vary greatly depending on the party consulted. In other words, the parties to a complaint – the complainant and the deputy head – could view the process quite differently as a result of the decision rendered in their case.

With respect to measuring the time it takes to issue a decision, it was decided that the starting point should be the date of the hearing, rather than the date of the filing of a complaint. Measuring the time between the initial filing of a complaint and the publication of a decision is not an appropriate indicator because of the many factors beyond the Tribunal's control – for example, the number of legitimate requests to extend deadlines and changes to the hearing schedule.

For these reasons, the PSST revised its performance indicators and targets for its adjudication function as follows:

| **Tribunal decisions are timely, sound and well reasoned** | |
|---|---|
| **Indicator** | **Target** |
| Percentage of decisions where reasons are issued within two months of hearing | 80% |
| Percentage of Tribunal decisions upheld on judicial review | 95% |

Changes were also made to the performance indicators and targets related to the PSST mediation program. In the 2007–2008 Report on Plans and Priorities, the result and indicators were:

| Results | Indicators |
|---|---|
| Timely Results of Alternate Dispute Resolution (ADR) interventions | • Fair and transparent process<br>• A high participation rate (50 percent)<br>• High success rate of parties in mediation<br>• Stakeholder satisfaction |

In implementing these indicators, it was found that the rate of participation in mediation was not an appropriate indicator because the parties are not obliged to participate in mediation. It was therefore determined that a more appropriate indicator to assess the effectiveness of the PSST mediation services would be the percentage of complaints withdrawn as a result of mediation.

The revised indicators and targets for the PSST mediation program are:

| **Optimal utilization of Tribunal's dispute resolution service by parties** | |
|---|---|
| **Indicator** | **Target** |
| Percentage of mediations resulting in a withdrawal of complaint | 70% |

In the context of the MRRS exercise, the PSST also developed the following three outputs with accompanying indicators and targets:

| **Complaints processed** | |
|---|---|
| **Indicator** | **Target** |
| Percentage of case files closed with 270 days | 80% |
| Number of complaints processed per year | As required |

| **Mediation sessions conducted** | |
|---|---|
| **Indicator** | **Target** |
| Number of mediations held per year | 140 |

| **Mediation training courses delivered** | |
|---|---|
| **Indicator** | **Target** |
| Number of mediation training courses for stakeholders given per year | 6 |

## 2007–2008 Results

The table below summarizes the results achieved by the PSST during 2007–2008.

| Expected Results | Performance Indicators and Targets | Results Achieved |
|---|---|---|
| Tribunal decisions are timely, sound and well reasoned | Percentage of decisions where reasons are issued within two months of hearing<br><br>Target: 80% | 68%<br><br>Although the 80% target was not achieved, all decisions were issued within at least six months of the hearing. |
| | Percentage of Tribunal decisions upheld on judicial review<br><br>Target: 95% | No ruling by the Federal Court has yet been made with respect to an application for the judicial review of a Tribunal decision. |
| Optimal utilization of Tribunal's dispute resolutions services by parties | Percentage of mediations resulting in withdrawal of complaint<br><br>Target: 70% | 80%<br><br>Of the 119 mediation sessions conducted, 96 resulted in a withdrawal of the complaint. |

A detailed description of the results achieved in 2007–2008 by the PSST follows.

| **Tribunal decisions are timely, sound and well reasoned** | |
|---|---|
| **Indicator** | **Target** |
| **Percentage of decisions where reasons are issued within two months of hearing** | **80%** |

The PSST encourages the parties to a complaint to resolve the complaint through mediation or other informal process rather than proceeding to a formal hearing of the issues by the Tribunal. As a result, most complaints are resolved before they ever reach the hearing stage of the complaint process. Nonetheless, in 2007–2008, 19 decisions were rendered following an oral or paper hearing on the merits of the case – that is, on the grounds of abuse of authority. Of these, 13, or 68 percent, were rendered within two months of the hearing and 16, or 84 percent, within three months. The remaining three decisions were issued within six months.

The slight delay in issuing decisions after a hearing may be explained in part by the unexpected increase in the number of complaints submitted to the Tribunal. In only its second full year of operations in 2007–2008, the number of complaints rose from 438 to 742, an increase of 69 percent. It is not surprising, therefore, that the number of decisions rendered on the merits in 2007–2008 rose from two to 19.

The time required to write the reasons of decision varies, depending on the complexity of the case and whether the Tribunal will be setting a precedent in a particular decision. The vast majority of the issues dealt with by the Tribunal thus far have had no precedents. The Tribunal therefore has to carefully examine the issues raised in a complaint before rendering its reasons for decision in order to ensure that its decisions reflect the intent of the new legislation and create appropriate precedents for future decisions.

Another factor that affected the length of time it took to issue a decision following a hearing is the relatively small number of Tribunal members available to hold pre-conference hearings, to preside over hearings and to render decisions on preliminary matters or on the merits of the case. In 2007–2008, there were five[5] PSST members to deal with the total caseload of 997 complaint files.

Experience thus far would seem to indicate that the target for this indicator is an ambitious one. Nevertheless, the PSST considers that it is important to release its decisions in a timely manner because of the possible impact a Tribunal decision may have upon the parties and the workplace involved.

Accordingly, a number of measures were put in place during the year to ensure that the PSST meets its target of 80 percent of its decisions being issued within two months of the hearing, even when the volume of complaints is much higher than expected. These measures include: the issuance of letter decisions for procedural matters such as questions of jurisdiction and timeliness; the consolidation of a greater number of files early on in the process and the issuing of reasons for decisions based on written submissions, whenever appropriate.

| **Tribunal decisions are timely, sound and well reasoned** | |
|---|---|
| **Indicator** | **Target** |
| **Percentage of Tribunal decisions upheld on judicial review** | **95%** |

In 2007–2008, five of the Tribunal's decisions were referred to the Federal Court for judicial review. At the time of writing, these cases were still pending.

[5] The PSST consists of between five and seven permanent members appointed by the Governor in Council. (subs. 88. (1) of the PSEA)

| Optimal utilization of Tribunal's dispute resolution service by parties | |
|---|---|
| **Indicator** | **Target** |
| **Percentage of mediations resulting in a withdrawal of complaint** | **70%** |

In 2007–2008, 119 mediation sessions were conducted, and, of these, 96, or 80 percent, resulted in a withdrawal of the complaint. Thus, the Tribunal exceeded its target of 70 percent of mediations resulting in a withdrawal of complaint by 10 percent. The Tribunal attributes its success in mediation to its training program which was developed to familiarize PSST stakeholders with the process in order that they participate fully in mediation and obtain the best possible results. The role of the mediator is also important inasmuch as the mediator helps the parties discuss their interests openly and frankly and identify possible options for resolving the complaint.

**Outputs**

| Indicator | Target |
|---|---|
| **Percentage of case files closed with 270 days** | **80%** |

The PSST was created in part to ensure that staffing complaints proceed as informally and expeditiously as possible. Accordingly, the PSST complaint process includes, in addition to the hearing itself, opportunities throughout the process to resolve complaints through constructive dialogue. In establishing its target for length of time it takes to process a complaint, the PSST considered the time limits established by the PSST Regulations for the steps in the process – the exchange of information (25 days), the submission of the complainant's allegations (10 days), the deputy head's reply (15 days) and the other parties' reply (10 days) – as well as a reasonable amount of time within which to conduct mediation, schedule a hearing and render a decision.

Taking into account that complaints may well proceed through every step in the process from receipt of a file to its closing, the PSST determined that 270 days is a reasonable period for processing a complaint. A target of 80% of all files closed within that period was established. However, in the past fiscal year, the Tribunal did not meet this target; of the 742 complaints received in 2007–2008, 536 or, 72%, were closed within 270 days.

This relatively small shortfall can be attributed to the same factors involved in the issuance of a decision after a hearing – that is, an unexpected increase in the number of complaints received, the number of mediators and members available to conduct mediation and hold hearings and the establishment of an ambitious target. In addition, the PSST was faced with numerous requests, or motions, from the parties to a complaint due, in part, to their unfamiliarity with the newly-established tribunal and the complaint process itself. These requests involved questions of jurisdiction or extension of deadlines and, in all cases, required a decision by a Tribunal member. In order to establish precedents for future questions

of this nature, the PSST took the necessary time to study the issues and render fair and transparent decisions. In so doing, the PSST did not attain its target of 80 percent of files closed within 270 days in 2007–2008, but did lay the groundwork for handling complaints more efficiently in the future.

| Indicator | Target |
|---|---|
| **Number of complaints processed: 742** | **As required** |

One of the challenges faced by the PSST is the difficulty in predicting the volume of complaints that will be submitted to the Tribunal. Since the PSST has no control over the number of complaints that it receives, it is impossible to establish a concrete target. It is important, nevertheless, to provide an indication of the Tribunal's caseload; for this reason, the target reflects the actual number of complaints received during the year: 742. However, it should be noted that, in addition to the 742 complaints received in 2007–2008, 255 files were carried over from the previous year.

| Indicator | Target |
|---|---|
| **Number of mediations held per year: 119** | **140** |

Mediation is an optional step in the PSST complaint process – that is, the parties may decline the Tribunal's offer of mediation and proceed to the next steps in the process. This explains, in part, the lower than expected number of mediation sessions conducted in 2007–2008. Other factors include: the length of time it took to staff the full complement of mediator positions; the amount of time spent by the mediators holding separate conference calls with the parties prior to mediation in order to help the parties prepare for mediation, to assess the feasibility of resolving the complaint through mediation and thus to avoid unnecessary travel; the large number of mediation sessions conducted outside of the National Capital Region, the resulting need for the Tribunal's mediators to spend time traveling to the site of the mediation and the demand for mediation training by stakeholders.

| Indicator | Target |
|---|---|
| **Number of mediation training courses for stakeholders given per year: 12** | **6** |

The number of courses given reflected the high demand for mediation training in the context of complaints filed under the new PSEA. The target was established at six courses per year to reflect the PSST's decision to concentrate its efforts more on mediation itself than on training now that the new PSEA has been in place for nearly three years. It is believed that the demand for training has leveled off and that six courses per year is a sufficient number to respond to the demand.

## PSST Management Priorities

In its 2007–2008 Report of Plans and Priorities, the PSST established the following internal management priorities:

- *Effective regulations and procedures*
  The effectiveness of the *PSST Regulations*, procedures and guidelines in support of the processing of complaints and ADR interventions will be monitored through periodic consultations with stakeholders.

- *Quality of access to services and information*
  The PSST plans to use technology to the extent possible. In two to three years' time, this will mean: using the Internet as a tool to link with the case management system and to provide information to clients; automating scheduling and other administrative matters with the parties; allowing complainants to e-file; and linking the case management system to the performance management system.

- *Healthy workplace*
  This will be monitored through the number of complaints and grievances submitted by PSST staff and other means, such as workplace surveys.

- *Adaptable workforce*
  The PSST will emphasize career development, continuous learning and the creation of meaningful jobs. Jobs will be designed to enable the PSST to attract and retain qualified staff. This will be measured by the number of applicants to advertised positions, the rate of turnover, and other means, such as workplace surveys.

## 2007–2008 Results

### Effective regulations and procedures

An internal committee was established in April 2007 to review the *PSST Regulations* and make recommendations for amendments as deemed necessary. The committee's revised version was submitted to the Tribunal's main stakeholders for comment in September 2007. Further changes were made to *Regulations* as a result of their comments. A final version was submitted to the Department of Justice on December 11, 2007; the review is ongoing.

### Quality of access to services and information

In order to provide up-to-date information on and ready access to the Tribunal's complaint process and services, the following initiatives were taken during the year:

- *Electronic Guidebook*
  The Guidebook was developed jointly by the Canada School of Public Service (CSPS) and the PSST to provide a visual representation of the complaint process to public servants and bargaining agents on the Internet. It was launched in December 2007 and contains step-by-step information about the PSST's role and responsibilities, how to file a complaint, the complaint process itself and the conduct of an oral hearing.

- *Fillable on-line forms*
  To facilitate the completion of PSST complaint forms, a project to permit complainants to fill out all PSST complaint forms on-line and send them to the Tribunal by e-mail was undertaken and completed in March 2008.

- *E-mail alerts*
  The capacity to send an e-mail to subscribers alerting them to the posting of a new decision on the PSST website was developed and will be implemented in April 2008.

- *Slide presentations*
  Slide presentations were developed and tailored to particular audiences. The presentations were intended to provide statistical information regarding complaints received by the Tribunal as well as the jurisprudence established by the decisions rendered and were delivered to stakeholder groups across the country.

- *Intranet site*
  In order to ensure that PSST employees have the information they need to perform their duties, an Intranet site was developed and launched in November 2007.

- *Stakeholder consultation group*
  The Tribunal conducted a review of its stakeholder consultation group in order to make recommendations as to how to improve the effectiveness of the group's meetings. The report was issued in March 26, 2007. The Tribunal will consider the report's recommendations and make adjustments to the consultation process as it deems necessary.

- *Information Management System*
  A plan to develop and implement a modern information management system using the latest developments in information technology was prepared in February 2008. The technical requirements were identified in March 2008. The system is expected to be fully operational by the end of 2008.

### Healthy workplace

The PSST holds regular staff meetings during which a learning activity is usually included. Several human resources policies designed to promote effective labour-management relations were finalized and posted on the PSST's Intranet site for easy access by employees. An Informal Conflict Management System (ICMS) was developed and implemented in consultation with the bargaining agent's representative.

The Employee Assistance Program (EAP) is available to all PSST employees and its use is encouraged by the management team. EAP consultants were invited to staff meetings during the past year to facilitate discussions on work-related topics such as stress management, conflict resolution and effective communication.

The PSST strives to assist its employees in achieving a satisfactory work-life balance and to build a strong team environment by planning group activities and improving internal communications.

### Adaptable workforce

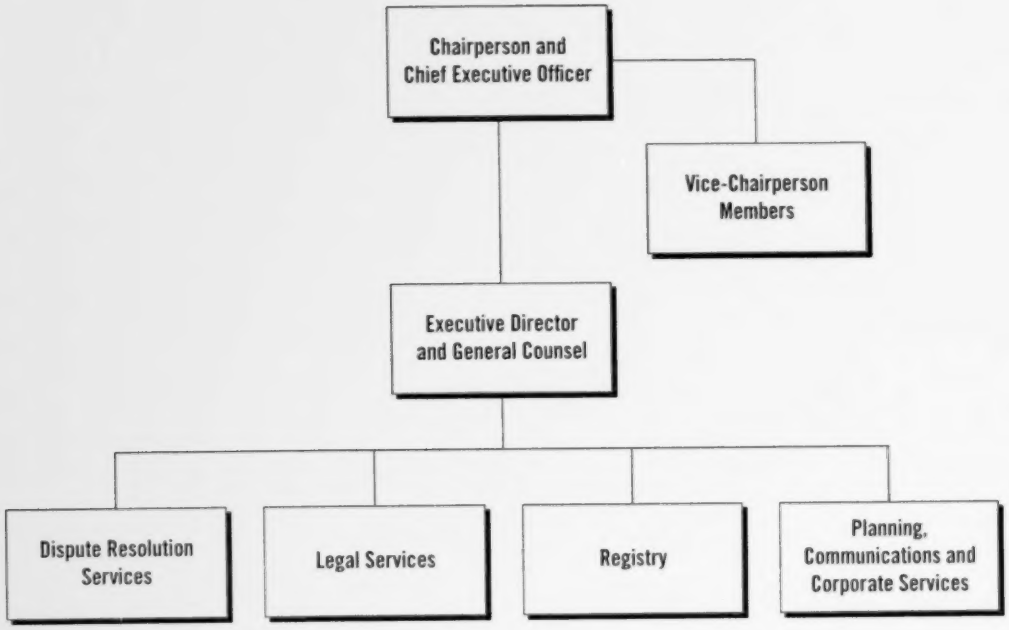
By the end of 2007–2008, the PSST had filled nearly all of the positions within the organization. The next step in the development of an adaptable workforce is the implementation of the PSST's learning policy, including learning plans for all employees.

Work began during the year on the development of competency profiles for certain target groups and levels in order to assist employees and managers in identifying their learning and developmental needs.

SECTION III

# *Supplementary Information*

# Organizational Information




## Departmental Link to Government of Canada Outcome Areas (for DPRs)

| Strategic Outcome: | | | | |
|---|---|---|---|---|
| | Actual Spending 2007–08 ($ thousands) | | | Alignment to Government of Canada Outcome Area |
| | Budgetary | Non-budgetary | Total | |
| Adjudication and mediation of complaints filed under the *Public Service Employment Act* | 4,304 | | 4,304 | Government Affairs |

## Table 1: Comparison of Planned to Actual Spending (including FTEs)

This table offers a comparison of the Main Estimates, Planned Spending, Total Authorities, and Actual Spending for the most recently completed fiscal year. It also provides historical figures for Actual Spending.

| | | | 2007–2008 | | | |
|---|---|---|---|---|---|---|
| **($ thousands)** | **2005–2006 Actual** | **2006–2007 Actual** | **Main Estimates** | **Planned Spending** | **Total Authorities** | **Actual** |
| Adjudication and mediation of complaints filed under the *Public Service Employment Act* | 1,950 | 3,245 | 4,960 | 4,960 | 5,119 | 4,304 |
| **Total** | | | | | | |
| Less: Nonrespendable revenue | | (29) | N/A | | | (15) |
| Plus: Cost of services received without charge | 176 | 392 | N/A | 442 | 527 | 527 |
| **Total Departmental Spending** | **2,126** | **3,608** | **4,960** | **5,402** | **5,646** | **4,816** |
| **Full-time Equivalents** | **10** | **22** | **N/A** | **35** | **N/A** | **29** |

## Table 2: Voted and Statutory Items

This table explains the way Parliament votes resources to the Tribunal, including voted appropriations and statutory authorities.

| Vote or Statutory Item | Truncated Vote or Statutory Wording | 2007–2008 ($ thousands) Main Estimates | Planned Spending | Total Authorities | Actual |
|---|---|---|---|---|---|
| 90 | Program expenditures | 4,451 | 4,451 | 4,717 | 3,902 |
| (S) | Contributions to employee benefit plans | 509 | 509 | 402 | 402 |
| | **Total** | **4,960** | **4,960** | **5,119** | **4,304** |

Note: Planned Spending is the amount included in the Tribunal's 2007-08 Reports on Plans and Priorities and indicates amounts planned at the beginning of the year.

## Table 3: Travel Policies

The Tribunal follows the Treasury Board Secretariat (TBS) Travel Directive, Rates and Allowances, and the *TBS Special Travel Authorities*.

## Table 4: Financial Statements

These Financial Statements are prepared in accordance with accrual accounting principles. The unaudited supplementary information presented in the financial tables of this report is prepared on a modified cash basis of accounting in order to be consistent with appropriations-based reporting. Note 3 of the financial statements reconcile these two accounting methods.

### Statement of Management Responsibility

Responsibility for the integrity and objectivity of the accompanying financial statements for the year ended March 31, 2008, and all information contained in this report rests with the Tribunal's management. These statements have been prepared by management in accordance with Treasury Board accounting policies which are consistent with Canadian generally accepted accounting principles for the public sector, using management's best estimates and judgments where appropriate and gives due consideration to materiality.

Management is responsible for the integrity and objectivity of the information in these financial statements. To fulfill its accounting and reporting responsibilities, management maintains a set of accounts that provides a centralized record of the Tribunal's financial transactions. Financial information submitted to the *Public Accounts of Canada* and included in the Tribunal's *Departmental Performance Report* is consistent with these financial statements.

Management maintains a system of financial management and internal control designed to provide reasonable assurance that financial information is reliable, that assets are safeguarded and that transactions are in accordance with the *Financial Administration Act*, are executed in accordance with prescribed regulations, within Parliamentary authorities and are properly recorded to maintain accountability of Government funds. Management also seeks to ensure the objectivity and integrity of data in its financial statements by careful selection, training and development of qualified staff, by organizational arrangements that provide appropriate divisions of responsibility, and by communication programs aimed at ensuring that regulations, policies, standards and managerial authorities are understood throughout the Tribunal.

The financial statements of the Tribunal have not been audited.

**Guy Giguère**
**Chairperson and Chief Executive Officer**

**Josée Dubois**
**Senior Financial Officer**

**Statement of Operations (unaudited)**
**For the year ended March 31, 2008**
(in dollars)

| | 2008 | 2007 |
|---|---|---|
| **OPERATING EXPENSES** | | |
| Salaries and employee benefits | 3,496,863 | 2,658,069 |
| Professional and special services | 438,046 | 387,113 |
| Accommodation | 339,089 | 249,312 |
| Transportation and telecommunications | 275,801 | 166,552 |
| Rentals | 158,377 | 103,360 |
| Acquisition of machinery and equipment | 107,980 | 57,344 |
| Repairs and maintenance | 88,871 | 12,621 |
| Communication | 56,954 | 29,014 |
| Other operating expenses | 47,049 | 43,904 |
| Utilities, materials and supplies | 32,818 | 40,672 |
| Amortization of tangible capital assets | 8,602 | 6,393 |
| **Total Expenses** | **5,050,450** | **3,754,354** |
| **REVENUES** | | |
| Miscellaneous Revenues | 15,223 | 29,210 |
| **Total Revenues** | **15,223** | **29,210** |
| **Net cost of operations** | **5,035,227** | **3,725,144** |

The accompanying notes form an integral part of these financial statements

**Statement of Financial Position (unaudited)**
**At March 31, 2008**
(in dollars)

| | 2008 | 2007 |
|---|---|---|
| **ASSETS** | | |
| **Financial assets** | | |
| Receivables from other Federal Government departments and agencies | 128,825 | 229,497 |
| Advances | 500 | 500 |
| **Total financial assets** | **129,325** | **229,997** |
| **Non-financial assets** | | |
| Tangible capital assets (Note 4) | 17,442 | 21,444 |
| **Total non-financial assets** | **17,442** | **21,444** |
| **TOTAL** | **146,767** | **251,441** |
| **LIABILITIES** | | |
| Accounts payable and accrued liabilities | | |
| Other Federal Government departments and agencies | 287,853 | 32,544 |
| Others | 287,201 | 238,506 |
| Vacation pay and compensatory leave | 123,225 | 88,443 |
| Employee severance benefits (Note 5) | 544,173 | 363,919 |
| | **1,242,452** | **723,412** |
| **EQUITY OF CANADA** | **(1,095,685)** | **(471,971)** |
| **TOTAL** | **146,767** | **251,441** |

Contingent liabilities (note 2 (h))

The accompanying notes form an integral part of these financial statements

**Statement of Equity of Canada (unaudited)**
**For the year ended March 31, 2008**
(in dollars)

| | 2008 | 2007 |
|---|---|---|
| **Equity of Canada, beginning of year** | **(471,971)** | **(412,249)** |
| Net cost of operations | (5,035,227) | (3,725,145) |
| Current year appropriations used (Note 3) | 4,303,941 | 3,215,894 |
| Change in net position in the Consolidated Revenue Fund (Note 3) | (404,676) | 86,438 |
| Revenue not available for spending | (15,223) | (29,210) |
| Services provided without charge by other government departments (Note 6) | 527,471 | 392,301 |
| **Equity of Canada, end of year** | **(1,095,685)** | **(471,971)** |

The accompanying notes form an integral part of these financial statements

**Statement of Cash Flow (unaudited)**
**For the year ended March 31, 2008**
(in dollars)

| | 2008 | 2007 |
|---|---|---|
| **Operating Activities** | | |
| **Net cost of operations** | 5,035,227 | 3,725,144 |
| **Non-cash items:** | | |
| Amortization of tangible capital assets | (8,602) | (6,393) |
| Services provided without charge by other government departments (Note 6) | (527,471) | (392,301) |
| **Variations in Statement of Financial Position:** | | |
| Increase (decrease) in accounts receivable and advances | (100,672) | 17,382 |
| Increase in liabilities | (519,040) | (86,590) |
| Cash used by operating activities | 3,879,442 | 3,257,242 |
| **Capital Investment Activities** | | |
| Acquisitions of tangible capital assets | 4,600 | 15,879 |
| Cash used by capital investment activities | 4,600 | 15,879 |
| **Financing Activities** | | |
| **Net cash provided by Government of Canada** | **(3,884,042)** | **(3,273,121)** |

The accompanying notes form an integral part of these financial statements

## PUBLIC SERVICE STAFFING TRIBUNAL
## Notes to the Financial Statements (unaudited)
## For the year ended March 31, 2008

### *1. Authority and Objectives*

The Public Service Staffing Tribunal (PSST) has been established through the new *Public Service Employment Act*, and was enacted on November 20, 2003 by Order in Council 2003-1808. The PSST's mandate is to consider and dispose of complaints under the revised *Public Service Employment Act* regarding internal appointments, complaints regarding internal appointments revoked by the Deputy Head or the Public Service Commission (PSC) following a departmental or PSC investigation made at the request of a department or agency, and complaints from employees who have been notified that they will be laid off. The PSST also promotes a non-adversarial resolution of disputes by providing mediation services.

### *2. Significant Accounting Policies*

The financial statements have been prepared in accordance with Treasury Board accounting policies which are consistent with Canadian generally accepted accounting principles for the public sector.

Significant accounting policies are as follows:

(a) *Parliamentary appropriations* – The Tribunal is financed by the Government of Canada through Parliamentary appropriations. Appropriations provided to the Tribunal do not parallel financial reporting according to Canadian generally accepted accounting principles. Consequently, items recognized in the Statement of Operations and the Statement of Financial Position are not necessarily the same as those provided through appropriations from Parliament. Note 3 provides a high-level reconciliation between the bases of reporting.

(b) Net Cash Provided by Government – The Tribunal operates within the Consolidated Revenue Fund (CRF), which is administered by the Receiver General for Canada. All cash received by the Tribunal is deposited to the CRF and all cash disbursements made by the Tribunal are paid from the CRF. The net cash provided by Government is the difference between all cash receipts and all cash disbursements including transactions between departments of the federal government.

(c) Change in net position in the Consolidated Revenue Fund is the difference between the net cash provided by Government and appropriations used in a year, excluding the amount of non-respendable revenue recorded by the Tribunal. It results from timing differences between when a transaction affects appropriations and when it is processed through the CRF.

(d) Revenues – Revenues are accounted for in the period in which the underlying transaction or event occurred that gave rise to the revenues.

(e) Expenses – Expenses are recorded on the accrual basis:

- Vacation pay and compensatory leave are expensed as the benefits accrue to employees under their respective terms of employment.

- Services provided without charge by other government departments for accommodation, the employer's contribution to the health and dental insurance plans and legal services are recorded as operating expenses at their estimated cost.

(f) Employee future benefits

(i) Pension benefits: Eligible employees participate in the Public Service Pension Plan, a multiemployer plan administered by the Government of Canada. The Tribunal's contributions to the Plan are charged to expenses in the year incurred and represent the total obligation to the Plan. Current legislation does not require the Tribunal to make contributions for any actuarial deficiencies of the Plan.

(ii) Severance benefits: Employees are entitled to severance benefits under labour contracts or conditions of employment. These benefits are accrued as employees render the services necessary to earn them. The obligation relating to the benefits earned by employees is calculated using information derived from the results of the actuarially determined liability for employee severance benefits for the Government as a whole.

(g) Receivables recorded by the Tribunal are from Other Government Departments. Recovery is considered certain and a provision has not been made.

(h) Contingent Liabilities – In the normal course of its operations, the Tribunal may become involved in various legal actions. Some of these potential liabilities may become actual liabilities when one or more future events occur or fail to occur. To the extent that the future event is likely to occur or fail to occur, and a reasonable estimate of loss can be made, an estimated liability is accrued and an expense recorded. If the likelihood is not determinable or an amount cannot be reasonably estimated, the contingency is disclosed in the notes to the financial statements. The Tribunal has no contingent liabilities as at March 31, 2008.

(i) Tangible capital assets – all tangible capital assets plus leasehold improvements having an initial cost of $3,000 or more are recorded at their acquisition cost. The Tribunal does not capitalize tangibles, works of art and historical treasures that have cultural, aesthetic or historical value. Amortization of capital assets is done on a straight-line basis over the estimated useful life of the capital asset as follows:

| Asset Class | Amortization Period |
|---|---|
| Furniture and equipment | 5 years |
| Informatics hardware and software | 3 years |

(j) Foreign currency transactions – transactions involving foreign currencies are translated into Canadian dollar equivalents using rates of exchange in effect at the time of those transactions. Monetary assets and liabilities denominated in foreign currencies are translated into Canadian dollars using exchange rates in effect on March 31st. Gains and Losses resulting from foreign currency transactions are included in the Statement of Operations.

(k) Measurement uncertainty – The preparation of these financial statements in accordance with Treasury Board accounting policies which are consistent with Canadian generally accepted accounting principles for the public sector requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses reported in the financial statements. At the time of preparation of these statements, management believes the estimates and assumptions to be reasonable. The most significant items where estimates are used are contingent liabilities, the liability for employee severance benefits and the useful life of tangible capital assets. Actual results could significantly differ from those estimated. Management's estimates are reviewed periodically and, as adjustments become necessary, they are recorded in the financial statements in the year they become known.

### *3. Parliamentary Appropriations*

The Tribunal receives its funding through annual Parliamentary appropriations. Items recognized in the Statement of Operations and the Statement of Financial Position in one year may be funded through Parliamentary appropriations in prior, current or future years. Accordingly, the Tribunal has different net results of operations for the year on a government funding basis than on an accrual accounting basis. The differences are reconciled in the following tables:

**a) Reconciliation of net cost of operations to current year appropriations used: (in dollars)**

| | 2008 | 2007 |
|---|---|---|
| **Net cost of operations** | **5,035,227** | **3,725,144** |
| Adjustments for items affecting net cost of operations but not affecting appropriations: | | |
| Add (Less): | | |
| Services provided without charge | (527,471) | (392,301) |
| Increase in employee severance benefit liability | (180,254) | (131,068) |
| Increase vacation pay and compensatory leave liability | (34,782) | (24,578) |
| Revenue not available for spending | 15,223 | 29,210 |
| Amortization of tangible capital assets | (8,602) | (6,393) |
| | 4,299,341 | 3,200,014 |
| Adjustments for items not affecting net cost of operations but affecting appropriations: | | |
| Add (Less): | | |
| Acquisitions of tangible capital assets | 4,600 | 15,879 |
| **Current year appropriations used** | **4,303,941** | **3,215,893** |

**b) Appropriations provided and used**
**(in dollars)**

| | 2008 | 2007 |
|---|---|---|
| From public accounts | | |
| Vote 105 – Program expenditures | | 4,710,000 |
| Vote 90 – Program expenditures | 4,451,000 | |
| Transfer from Treasury Board – Vote 15 | 30,000 | |
| Transfer from Treasury Board – Vote 22 | 235,500 | |
| Contributions to employee benefit plan | 402,257 | 312,782 |
| Disposal of surplus of Crown assets | 11 | |
| Less: | | |
| Lapsed appropriations: Operating | (814,827) | (1,806,888) |
| **Current year appropriations used** | **4,303,941** | **3,215,894** |

**c) Reconciliation of net cash provided by Government to current year appropriations used:**
**(in dollars)**

| | 2008 | 2007 |
|---|---|---|
| **Net cash provided by Government** | **3,884,042** | **3,273,122** |
| Revenue not available for spending | 15,223 | 29,210 |
| Reversal of expenditures related to Justice Canada | | – |
| Change in net position in the Consolidated Revenue Fund: | | |
| Variation in accounts receivable and advances | 100,672 | (17,382) |
| Variation in accounts payable and accrued liabilities | 304,004 | (69,056) |
| | 404,676 | (86,438) |
| **Current year appropriations used** | **4,303,941** | **3,215,894** |

## 4. Tangible Capital Assets

**(in dollars)**

| | Cost | | | Accumulated amortization | | | 2008 | 2007 |
|---|---|---|---|---|---|---|---|---|
| **Capital asset class** | **Opening balance** | **Acquisitions** | **Closing Balance** | **Opening balance** | **Amortization** | **Closing Balance** | **Net book value** | **Net book value** |
| Informatics Hardware and Software | 12,828 | 4,600 | 17,428 | 5,146 | 5,426 | 10,572 | 6,856 | 7,682 |
| Furniture and equipment | 15,879 | – | 15,879 | 2,117 | 3,176 | 5,293 | 10,586 | 13,762 |
| **Total** | **28,707** | **4,600** | **33,307** | **7,263** | **8,602** | **15,865** | **17,442** | **21,444** |

Amortization expense for the year ended March 31, 2008 is $8,602 ($6,393 in 2006-07).

## 5. Employee benefits

(a) Pension benefits: The Tribunal's employees participate in the Public Service Pension Plan, which is sponsored and administered by the Government of Canada. Pension benefits accrue up to a maximum period of 35 years at a rate of 2 percent per year of pensionable service, times the average of the best five consecutive years of earnings. The benefits are integrated with Canada/Québec Pension Plans benefits and they are indexed to inflation.

Both the employees and the Tribunal contribute to the cost of the Plan. The 2007-08 expense amounts to $180,254 ($131,068 in 2006-07), which represents approximately 2.1 times (2.2 times in 2006-2007) the contributions by employees.

The Tribunal's responsibility with regard to the Plan is limited to its contributions. Actuarial surpluses or deficiencies are recognized in the financial statements of the Government of Canada, as the Plan's sponsor.

(b) Severance benefits: The Tribunal provides severance benefits to its employees based on eligibility, years of service and final salary. These severance benefits are not pre-funded. Benefits will be paid from future appropriations. Information about the severance benefits, measured as at March 31, is as follows:

| | 2008 | 2007 |
|---|---|---|
| | (in dollars) | |
| Accrued benefit obligation, beginning of year | 363,918 | 232,851* |
| Expense for the year | 180,254 | 131,068 |
| Benefits paid during the year | – | – |
| Accrued benefit obligation, end of year | 544,172 | 363,919 |

* Accrued benefit obligation, beginning of year 2007, was corrected to reflect amount in the Tribunal's accounts.

**6. Related party transactions**

The Tribunal is related as a result of common ownership to all Government of Canada departments, agencies, and Crown corporations. The Tribunal enters into transactions with these entities in the normal course of business and on normal trade terms. Also, during the year, the Tribunal received services which were obtained without charge from other Government departments as presented below.

Services provided without charge:

During the year the Tribunal received without charge from other departments, accommodation and the employer's contribution to the health and dental insurance plans. These services without charge have been recognized in the Tribunal's Statement of Operations as follows:

| | 2008 | 2007 |
|---|---|---|
| | (in dollars) | |
| Accommodation | 339,089 | 249,312 |
| Employer's contribution to the health and dental insurance plans | 188,382 | 142,989 |
| Total | 527,471 | 392,301 |

## SECTION IV
# *Other Items of Interest*

## Contact Information and Website

### General Information

Your comments or questions are important to us and we invite you to contact us through one of the following:

**Telephone**
613-949-6516
1-866-637-4491 (toll-free)

**TTY (teletype)**
(866) 389-6901

**Facsimile**
613-949-6551

**E-mail**
info@psst-tdfp.gc.ca

**Mail**
Public Service Staffing Tribunal
240 Sparks Street
6th Floor West
Ottawa, ON K1A 0A5

**Website**
www.psst-tdfp.gc.ca

### Contact Information for Complaints

**E-mail:**
director.directeur@psst-tdfp.gc.ca

**By Mail:**
Executive Director
Public Service Staffing Tribunal
240 Sparks Street
6th Floor West
Ottawa ON K1A 0A5

**Facsimile:**
(613) 949-6551